

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JUSTIN SWAIN,

Plaintiff,

v.

EAGLE RECOVERY ASSOCIATES, INC.,

Defendant.

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Case No. 12-13555

Honorable John Corbett O'Meara

**ORDER OF PARTIAL DISMISSAL**

Plaintiff Justin Swain filed a five-count complaint in this court August 10, 2012, alleging the following causes: Count I, violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692 *et. seq.*; Count II, violations the Michigan Collection Practices Act ("MCPA"), Mich. Comp. Laws Ann. §§ 445.251 *et. seq.*; Count III, violations of the Michigan Occupational Code ("MOC"), Mich. Comp. Laws Ann. §§ 339.901 *et seq.*; Count IV, invasion of privacy; Count V, intentional infliction of emotional distress.

Plaintiff has not established that the court has federal subject matter jurisdiction through diversity of citizenship. Although defendant Eagle Recovery Associates ("ERA") may be an Illinois company, Plaintiff has failed to allege ERA's state of incorporation and principal place of business. See, 28 U.S.C. § 1332(c)(1). In addition, Plaintiff seeks damages less than an amount in excess of \$75,000.00 as required by 28 U.S.C. § 1332(a).

The court does have subject matter jurisdiction over Count I, as it presents a federal question arising under the FDCPA. However, this court declines to exercise supplemental jurisdiction over Plaintiff's state law claims in order to avoid jury confusion. See 28 U.S.C. § 1367(c); United Mine

Workers v. Gibbs, 383 U.S. 715 (1966); and Padilla v. City of Saginaw, 867 F. Supp. 1309 (E.D. Mich. 1994).

Therefore, it is hereby **ORDERED** that Counts II, III, IV, and V of the complaint are **DISMISSED**.

s/John Corbett O'Meara  
United States District Judge

Date: September 10, 2012

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, September 10, 2012, using the ECF system.

s/William Barkholz  
Case Manager